

## Office of the Secretary of the Treasury

## § 50.51

shall be included in direct earned premium (as described in § 50.5(d)(1) or 50.5(d)(2)) of the participant insurer.

[68 FR 59720, Oct. 17, 2003]

### Subpart E—Self-Insurance Arrangements; Captives [Reserved]

### Subpart F—Claims Procedures

SOURCE: 69 FR 39307, June 29, 2004, unless otherwise noted.

EFFECTIVE DATE NOTE: At 69 FR 39307, June 29, 2004, subpart F was added, effective July 29, 2004.

#### § 50.50 Federal share of compensation.

(a) *General.* The Treasury will pay the Federal share of compensation for insured losses as provided in section 103 of the Act once a Certification of Loss required by § 50.53 is deemed sufficient. Subject to paragraph (b) of this section, Treasury shall pay the appropriate amount of the Federal share of compensation upon a determination that:

(1) The insurer is an entity, including an affiliate thereof, that meets the requirements of § 50.5(f);

(2) The insurer's insured losses as defined in § 50.5(e), including the allocated dollar value of the insurer's proportionate share of insured losses from a State residual market insurance entity or State workers' compensation fund as described in § 50.35, have exceeded its insurer deductible as defined in § 50.5(g);

(3) The insurer has paid or is prepared to pay an underlying insured loss, based on a filed claim for the insured loss;

(4) Neither the insurer's claim for Federal payment nor any underlying claim for an insured loss is fraudulent, collusive, made in bad faith, dishonest or otherwise designed to circumvent the purposes of the Act and regulations;

(5) The insurer had provided a clear and conspicuous disclosure as required by §§ 50.10 through 50.19;

(6) The insurer took all steps reasonably necessary to properly and carefully investigate the underlying insured loss and otherwise processed the

underlying insured loss using appropriate insurance business practices;

(7) The insured losses submitted for payment are within the scope of coverage issued by the insurer under the terms and conditions of the policies for commercial property and casualty insurance as defined in § 50.5(l); and

(8) The procedures specified in this Subpart have been followed and all conditions to payment have been met.

(b) *Adjustments.* Treasury may subsequently adjust, including requiring repayment of, any payment made under paragraph (a) of this section in accordance with its authority under the Act.

(c) *Suspension of payment for other insured losses.* Upon a determination by Treasury that an insurer has failed to meet any of the requirements for payment specified in paragraph (a) of this section for a particular insured loss, Treasury may suspend payment of the Federal share of compensation for all other insured losses of the insurer pending investigation and audit of the insurer's insured losses.

(d) *Amount payable.* The Federal share of compensation under the Program shall be 90 percent of that portion of the insurer's aggregate insured losses that exceed its insurer deductible during a Program Year, subject to any adjustments in § 50.51 and the cap of \$100 billion as provided in section 103(e)(2) of the Act.

#### § 50.51 Adjustments to the Federal share of compensation.

(a) *Aggregate amount of insured losses.* The aggregate amount of insured losses of an insurer in a Program Year used to calculate the Federal share of compensation shall be reduced by any amounts recovered by the insurer as salvage or subrogation for its insured losses in the Program Year.

(b) *Amount of Federal share of compensation.* The Federal share of compensation shall be adjusted as follows:

(1) *No excess recoveries.* For any Program Year, the sum of the Federal share of compensation paid by Treasury to an insurer and the insurer's recoveries for insured losses from other sources shall not be greater than the insurer's aggregate amount of insured